

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
1600 K STREET, NW  
SUITE 200  
WASHINGTON, D.C.  
20006-2973  
(202) 393-2266  
Fax (202) 393-2156

RECORDATION NO.

18716-H

FILED

DEC 29 '99

4-44 PM

SURFACE TRANSPORTATION BOARD  
OF COUNSEL  
URBAN A. LESTER

December 29, 1999

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a), are two (2) copies of an Assignment and Assumption Agreement, dated as of December 15, 1999, a secondary document, as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Lease which was previously filed with the Commission under Recordation Number 18716.

The names and addresses of the parties to the enclosed document are:

Assignor: Commonwealth Edison Company  
One First National Plaza  
10 South Dearborn, 38<sup>th</sup> Floor East  
Chicago, Illinois 60603

Assignee: Midwest Generation, LLC  
One Financial Place  
440 South LaSalle Street, Suite 3600  
Chicago, Illinois 60605

A description of the railroad equipment covered by the enclosed document is

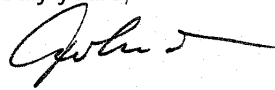
259 railcars - CWEX 2553 through CWEX 2817 (less six casualties)

Mr. Vernon Williams  
December 29, 1999  
Page Two

Also enclosed is a check in the amount of \$26.00 payable to the order of the  
Surface Transportation Board covering the required recordation fee.

Kindly return one stamped copy of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Alvord", with a stylized flourish at the end.

Robert W. Alvord

RWA/bg  
Enclosures

RECORDATION NO.

18716-H

FILED

DEC 29 '99

4-44 PM

EXECUTION COPY

ASSIGNMENT AND ASSUMPTION AGREEMENT  
SOUTHERN TRANSPORTATION BOARD

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("this Agreement") dated as of December 15, 1999, is entered into between COMMONWEALTH EDISON COMPANY, an Illinois corporation ("Assignor"), and MIDWEST GENERATION, LLC, a Delaware limited liability company ("Assignee").

WITNESSETH

WHEREAS, Assignor is a party to a certain Lease Agreement, dated as of February 1, 1994 (as amended, modified or supplemented from time to time, the "Lease Agreement") between Assignor, as Lessee, and Hero Leasing, Limited Partnership ("Lessor"), as Lessor, pursuant to which Assignor has agreed to lease certain equipment from Lessor as more particularly described in the Unit Leasing Records and identified on Schedule I hereto (collectively, the "Equipment");

WHEREAS, Assignor has entered into an Asset Sale Agreement, dated as of March 22, 1999, with Edison Mission Energy (the "Asset Sale Agreement") under which Assignor has agreed to sell and Edison Mission Energy ("Edison Mission") has agreed to purchase, through its affiliates, certain of Assignor's fossil-fired generation facilities together with certain peaking facilities (collectively, the "Fossil Generation Assets"); and

WHEREAS, Assignor proposes to assign and Assignee proposes to accept and assume all of the rights, title, interest and obligations of Assignor in and to the Equipment, the Lease Agreement and the Unit Leasing Records (such Lease Agreement and Unit Leasing Records being collectively referred to as the "Operative Documents"), subject to the terms and conditions herein set forth;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignee and Assignor hereby agree as follows:

1. Definitions. Capitalized terms used but not otherwise defined herein shall have the meaning given such terms in the Lease Agreement. The following terms shall have the following meanings in this Agreement:

"Agent" means Toronto Dominion (Texas), Inc., as agent for the Bank.

"Bank" means The Toronto-Dominion Bank.

"Guarantor" means Edison Mission Midwest Holdings Co., a Delaware corporation, and its successors.

"Guaranty" means the Guaranty, dated on or before the date hereof, from Guarantor to Lessor, as the same may be amended, restated, modified or supplemented from time to time.

"Guarantor's Consent" means the Guarantor's Consent to Security Agreement, dated on or before the date hereof, to be entered into among Guarantor, Lessor and Agent, as the same may be amended, restated, modified or supplemented from time to time.

"Indemnity Letter" means the Letter of Indemnity, dated on or before the date hereof, to be entered into between Assignor and the Lessor, as the same may be amended, restated, modified or supplemented from time to time.

"Lessee's Consent" means the Lessee's Consent to Security Agreement, dated on or before the date hereof, to be entered into among Assignee, as lessee, Lessor and Agent, as the same may be amended, restated, modified or supplemented from time to time.

2. Assignment. Effective on the Assignment Effective Date (as defined below), Assignor hereby assigns to Assignee all of the rights, title, interest and obligations of Assignor in and to the Equipment and the Operative Documents (the "Assigned Interest").

3. Assumption.

(a) Effective on the Assignment Effective Date, Assignee hereby (i) accepts the assignment of the Assigned Interest from Assignor from and after the Assignment Effective Date, (ii) assumes all of Assignor's duties and obligations as Lessee under the Operative Documents in accordance with the terms of the Operative Documents accruing on and after the Assignment Effective Date, (iii) agrees to be bound by the terms of Assignor's covenants as Lessee under the Operative Documents in accordance with the terms of the Operative Documents and (iv) agrees that each reference to "Lessee" in the Operative Documents shall, from and after the Assignment Effective Date, refer to Assignee and not to Assignor.

(b) Effective on the Assignment Effective Date, Assignor shall be released from its obligations under the Operative Documents except for amounts due, claims arising or liabilities relating to acts, omissions and occurrences, accidents or events occurring prior to the Assignment Effective Date. For this purpose, Assignee hereby expressly acknowledges and agrees that from and after the Assignment Effective Date, Assignee shall be subject to and agrees to be bound by the terms of the Lease Agreement and the other Operative Documents.

(c) If a dispute shall arise between Assignee and Assignor as to which of Assignee or Assignor is responsible for paying to Lessor any amount that shall be due under the Lease Agreement, Assignee shall pay such amount and pursue any claim it may have against Assignor.

4. Conditions to Effectiveness. The effectiveness of this Agreement shall be subject to the satisfaction of the following conditions precedent prior to or contemporaneously with the delivery of this Agreement:

(a) Assignor and Edison Mission (and its subsidiaries and affiliates) shall have completed the transfer of the Fossil Generation Assets pursuant to the Asset Sale Agreement;

(b) Each of Assignee's representations and warranties contained in Section 7 hereof and elsewhere in the Operative Documents shall be true and correct in all material respects on the Assignment Effective Date with the same effect as though made on and as of the Assignment Effective Date; no potential default or event of default shall exist on the part of or with respect to Assignee; Assignee shall have performed and complied in all material respects with all agreements and conditions contained in this Agreement and in the Lease Agreement which are required to be performed or complied with by Assignee on or before the Assignment Effective Date;

(c) Assignor and Lessor shall have received evidence satisfactory to the Lessor that Assignee has obtained policies of insurance in such amounts, with such companies and against such risks as are required by Section 10 of the Lease Agreement;

(d) Assignor and Lessor shall have received an opinion of Skadden, Arps, Slate, Meagher & Flom LLP, counsel for Assignee, dated the date hereof, addressed to Assignor and Lessor and in form and substance satisfactory to Assignor and Lessor;

(e) Assignor and Lessor shall have received an opinion of Skadden, Arps, Slate, Meagher & Flom LLP, counsel for Guarantor, dated the date hereof, addressed to Assignor and Lessor and in form and substance satisfactory to Assignor and Lessor;

(f) The following documents shall have been duly executed and delivered by the parties thereto and shall be in full force and effect and Assignor and Lessor shall have received a copy of each thereof, namely:

- (i) this Agreement;
- (ii) the Amended and Restated Lease;
- (iii) the Amendment No. 1 to Unit Leasing Record and Confirmation of Assumption of Unit Leasing Record relating to ULR No. 1 and ULR No. 2;
- (iv) the Guaranty;
- (v) the Lessee's Consent;
- (vi) the Guarantor's Consent;
- (vii) the Indemnity Letter;

(viii) a certificate from a person authorized by Assignee certifying (1) as to the incumbency and specimen signatures of each person authorized to execute this Agreement and all other agreements and documents contemplated by this Agreement, (2) that attached thereto is a true and complete copy of the certificate of formation of Assignee filed with the Secretary of State of Delaware, (3) that attached thereto is a true and complete copy of the limited liability company agreement of Assignee as in effect on the date hereof, and (4) that attached thereto is a true and complete copy of evidence of all actions taken by Assignee to authorize the transactions contemplated by this Agreement;

(ix) a certificate from a person authorized by Assignee certifying (1) as to the accuracy of the representations and warranties contained in Section 2 of the Lease Agreement and (2) the absence of an Event of Default or Potential Default under the Lease Agreement as a result of the transactions contemplated in this Agreement;

(x) a certificate from the Secretary of Guarantor certifying (1) as to the incumbency and specimen signatures of each officer of Guarantor authorized to execute the Guaranty and the Guarantor's Consent and all other agreements and documents contemplated by this Agreement, (2) that attached thereto is a true and complete copy of the certificate of incorporation of Guarantor filed with the Secretary of State of Delaware, (3) that attached thereto is a true and complete copy of the by-laws of Guarantor, and (4) that attached thereto is a true and complete copy of resolutions of the board of directors of Guarantor authorizing the execution, delivery and performance of the Guaranty and the Guarantor's Consent and all other agreements and documents contemplated by this Agreement;

(xi) a certificate from an authorized officer of Guarantor certifying as to the accuracy of the representations and warranties contained in the Guaranty; and

(xii) a certificate from an authorized officer of Assignor certifying as to the absence of an Event of Default or Potential Default under the Lease Agreement;

(g) Assignor and Lessor shall have received (i) a certificate from the Secretary of State of Delaware certifying that Assignee is in good standing in such State and (ii) a certificate from the Secretary of State of Illinois certifying that Assignee is qualified to do business in such State; and

(h) Assignor and Lessor shall have received a certificate from the Secretary of State of Delaware certifying that Guarantor is in good standing in such State.

5. Effectiveness. Subject to satisfaction of the conditions set forth in Section 4 hereof, the assignment hereunder shall become effective as of the date hereof (the "Assignment Effective Date"). On and after the Assignment Effective Date, Assignee shall be deemed the "Lessee" for all purposes under the Lease Agreement and the other Operative Documents, and shall be subject to and shall benefit from all of the rights and obligations of the Lessee under the Lease Agreement and the other Operative Documents.

6. Representations and Warranties of Assignor. Assignor hereby represents and warrants that:

(a) Assignor (i) has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Illinois, (ii) has full power, authority and legal right to own and operate its properties and to conduct its business as presently conducted and to execute, deliver and perform its obligations under this Agreement and any other agreement contemplated hereby and (iii) is duly qualified to do business as a foreign corporation in good standing in each jurisdiction in which its ownership or leasing of properties or the conduct of its business requires such qualification.

(b) The making and performance by Assignor of this Agreement and all documents required to be executed and delivered by it hereunder do not and will not

violate any law or regulation of the jurisdiction of its incorporation or any other law or regulation applicable to it.

(c) This Agreement has been duly executed and delivered by Assignor and constitutes its legal, valid and binding obligation.

(d) All approvals, authorizations, or other actions by, or filings with, any governmental authority necessary for the validity or enforceability of Assignor's obligations under this Agreement have been obtained.

(e) There is no breach or default, nor any event or condition which given notice or the lapse of time or both would constitute a breach or default, attributable to Assignor under any of the Operative Documents.

7. Representations and Warranties of Assignee. Assignee hereby represents and warrants that:

(a) Assignee (i) has been duly formed and is validly existing as a limited liability company in good standing under the laws of the State of Delaware, (ii) has full power, authority and legal right to own and operate its properties and to conduct its business as presently conducted and to execute, deliver and perform its obligations under this Agreement and any other agreement contemplated hereby and (iii) is duly qualified to do business as a foreign corporation in good standing in each jurisdiction in which its ownership or leasing of properties or the conduct of its business requires such qualification.

(b) The making and performance by Assignee of this Agreement and all documents required to be executed and delivered by it hereunder do not and will not violate any law or regulation of the jurisdiction of its incorporation or any other law or regulation applicable to it.

(c) This Agreement has been duly executed and delivered by Assignee and constitutes its legal, valid and binding obligation.

(d) All approvals, authorizations, or other actions by, or filings with, any governmental authority necessary for the validity or enforceability of Assignee's obligations under this Agreement have been obtained.

(e) Assignee has received a copy of the Lease Agreement and the other Operative Documents and such other documents and information as it has deemed necessary or appropriate to make its own decision to enter into this Agreement.

8. Notices. All notices, waivers, requests, demands and other communications hereunder or under any other instrument, certificate or other document delivered in connection with the transactions described herein shall be in writing, shall be addressed as provided below and shall be considered as properly given (a) if delivered in person, (b) if sent by express overnight courier service (including, without limitation, Federal Express, Emery, United Parcel Service, DHL, Airborne Express, and other similar express delivery services), (c) in the event

overnight delivery services are not readily available, if mailed by international airmail, postage prepaid, registered or certified with return receipt requested, or (d) if sent by telecopy and confirmed; provided, that in the case of a notice by telecopy, the sender shall in addition confirm such notice by writing sent in the manner specified in clauses (a), (b) or (c) of this Section 9. All notices shall be effective upon receipt by the addressee; provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. For the purposes of notice, the addresses of the parties shall be as set forth below:

If to Assignor:

Commonwealth Edison Company  
37th Floor – East  
One First National Plaza  
10 South Dearborn Street  
Chicago, Illinois 60603

Attention: Treasurer  
Telephone: (312) 394-3153  
Telecopy: (312) 394-3110

If to Assignee:

Midwest Generation, LLC  
One Financial Place  
440 South LaSalle Street  
Suite 3600  
Chicago, Illinois 60605

Attention: Manager of Fuel  
Telephone: (312) 583-6000  
Telecopy: (312) 583-6111

9. Expenses. Assignee shall pay all reasonable out-of-pocket expenses of Lessor (including the reasonable fees and disbursements of counsel to Lessor) incurred in connection with the preparation, execution and delivery of this Agreement and any other documents delivered in connection with the transactions contemplated hereby.

10. Miscellaneous.

(a) All representations and warranties made in this Agreement or made in writing in connection with this Agreement shall survive the consummation of the transactions contemplated hereby.

(b) No term or provision of this Agreement may be changed, waived, discharged or terminated orally but only by an instrument in writing signed by all parties hereto.



(c) Each party hereby agrees promptly and duly to execute and deliver such instruments, documents and assurances, and to take such further action, as may be necessary or as may be reasonably requested by the other party to effectuate the purpose and intent of this Agreement.

(d) Assignee shall have the right to assign this Agreement to an affiliate or subsidiary of Edison Mission in connection with an assignment of the Lease Agreement; provided, that the Guarantor shall guarantee performance of the obligations of such transferee under this Agreement and the Operative Documents and provided, further, that the Guarantor and such transferee shall assume, by execution and delivery of instruments reasonably satisfactory to the Lessor and the Bank, all of the obligations and liabilities of Assignee under this Agreement and the Operative Documents.

(e) Any provision of this Agreement which is prohibited by law or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

(f) All payments hereunder or in connection herewith shall be made in U.S. Dollars and in immediately available funds.

(g) **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO PRINCIPLES OF CONFLICTS OF LAW.**

(h) To the fullest extent they may effectively do so, the parties hereto agree that any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

(i) This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

COMMONWEALTH EDISON  
COMPANY, as Assignor

By: \_\_\_\_\_  
Name:  
Title:

MIDWEST GENERATION, LLC,  
as Assignee

By: Reggie G. Rice  
Name: Reggie G. Rice  
Title: Vice President

We hereby consent to the foregoing  
Assignment and Assumption Agreement  
and acknowledge receipt of notice thereof:

EDISON MISSION MIDWEST HOLDINGS CO.,  
as Guarantor

By: Reggie G. Rice  
Name: Reggie G. Rice  
Title: Vice President

TORONTO DOMINION (TEXAS), INC.,  
as Agent

By: Lynn Chasin  
Name:  
Title: **LYNN CHASIN**  
**VICE PRESIDENT**

State of Illinois )  
 )  
County of Cook )

ss.:

I MARGARET M. WEIMER do hereby certify that on the 15 day of December 1999, REGGIE G. RICE the VICE PRESIDENT of Midwest Generation, LLC, personally appeared before me and being first duly sworn by me severally acknowledged that they signed the foregoing document in the respective capacities therein set forth and declared that the statements therein contained are true.

In Witness Whereof, I have hereunto set my hand and seal the day and year before written.

Margaret M. Weimer  
Notary Public

(SEAL)


My Commission Expires:



State of Illinois)  
County of Cook)

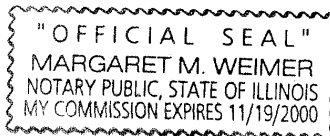
ss.:

On the 15 day of December ~~1999~~ before me personally came REGGIE G. RICE, to me known, who, being by me duly sworn, did depose and say that he resides in IRVINE, CALIFORNIA; that he is the VICE PRESIDENT of Edison Mission Midwest Holdings Co., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by authority of the Board of Directors of said corporation.

  
Notary Public

(SEAL)


My Commission Expires:



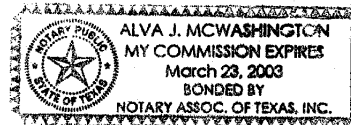
State of Texas       )  
                              )  
County of Harris    )

ss.: 253-66-4166

On the 9 day of December, 1999, before me personally came  
Lynn Chasin, to me known, who, being by me duly sworn, did depose and  
say that he resides in Harris County, Texas; that he is the  
Vice President of Toronto Dominion (Texas), Inc., the corporation described in  
and which executed the foregoing instrument; and that he signed his name thereto by authority of  
the Board of Directors of said corporation.

  
Notary Public

(SEAL)



My Commission Expires: **March 23, 2003**

We hereby consent to the foregoing  
Assignment and Assumption Agreement  
and acknowledge receipt of notice thereof:

**HERO LEASING, LIMITED PARTNERSHIP**

By: Hero Capital, Inc.,  
its General Partner

By: 

Name:

Title:

**FRANK J. CONLEY**  
**VICE PRESIDENT**

State of New York     )  
                                  )     ss.:  
County of New York    )

On the 15 day of December, 1999 before me personally came Frank J. Conley, to me known, who, being by me duly sworn, did depose and say that he resides in Wilton, Connecticut; that he is a Vice President and Assistant Secretary of Hero Capital, Inc., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by authority of the Board of Directors of said corporation.

Eduardo N.T. Andrade  
Notary Public

(SEAL)

Eduardo N.T. Andrade  
NOTARY PUBLIC, State of New York  
No. 02-AN6025235  
Qualified in New York County  
Commission Expires May 24, 2001

SCHEDULE I  
LIST OF EQUIPMENT

Gondola railcars suitable for the conveyance of coal for boiler fuel use of the kind and quality typically employed by electric utility companies, and equipped with an aluminum body and rotary dump coupler, as evidenced by the Unit Leasing Records.